IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.2760 OF 2005

M/s.Anish Enterprises ..Applicant

Vs.

Mr.Arjun Dev & Anr. ..Respondents

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Mr. Prakash Naik Advocate for Applicant
Mr. Jahangir i/b M/s. Tamhane and Associates
Mr. V.B.Konde-Deshmukh,A.P.P. for the State

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CORAM: SMT.V.K.TAHILRAMANI,J.
DATE : JUNE 29,2005

P.C.

1. Heard the learned advocate for the applicant and the learned A.P.P. for the State.

2. The applicant is seeking quashing of complaint relating to Criminal Case No. 1327/S/2001 which is pending before the learned Metropolitan Magistrate, 33rd Court, Ballard Pier, Mumbai. In the said case, the process has been issued against the applicant under Section 138 of Negotiable Instruments Act. If the process issued against the applicant is set aside, the proceedings in respect

of the applicant would come to an end. The learned advocate for the applicant submitted that the learned Magistrate committed an error in issuing process and the said process deserves to be set aside.

3. For the reasons recorded in my order dated 13th June, 2005 in W.P.No. 213 of 2005 and dated 21st June, 2005 in Cri.Application No.550 of 2005, in my view, it is clear that the applicant has an efficacious remedy of preferring revision against the order of Magistrate issuing process. Hence, in my view, it would be appropriate that the applicant prefers a revision before the concerned Sessions Court against the order of the Magistrate issuing process.

4. Liberty is granted to the applicant to prefer the necessary revision before the concerned Sessions Court. The learned advocate for the applicant states that necessary revision will be filed within a period of three weeks from today. The learned advocate for the Respondent i.e. original complainant fairly states that no

objection will be raised in respect of delay in filing revision application. To enable the applicant to prefer necessary revision, the proceedings before the trial Court are stayed for a period of four weeks from today.

5. It is further stated that non-bailable warrant have been issued against the applicant by the trial Court and the said non-bailable warrant be quashed. In my view, it would be appropriate that the applicant approach the lower court for setting aside of the non-bailable warrants. To enable the applicant to take necessary steps in respect of non-bailable warrants, said non-bailable warrants are stayed for a period of four weeks from today.

6. On the necessary revision being preferred by the applicant before the concerned Sessions Court, the concerned Sessions Court shall dispose of the matter on merits after hearing the necessary parties.

7. Criminal Application is disposed of.

[V.K.TAHILRAMANI,J.]